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1041-9 (1-1-80) (REV. 1-1-80)

[Redacted]

[Redacted]

as appropriate, and to amend or supplement these objections and responses as appropriate.

The foregoing general objections shall apply to each of the following Requests whether or not restated in the response to any particular response.

SPECIFIC OBJECTIONS AND RESPONSES

REQUEST FOR ADMISSION NO. 1

“The website URL known as www.ecmbiofilms.com (“ECM Website”) has been

controlled collection 1. ECM”

Answer: Admitted

REQUEST FOR ADMISSION NO. 2

“Since its creation, the ECM Website has been publically available on the Internet.”

RESPONSE:

Answer: Denied. Denied to the extent that few individuals other than plastics manufacturers and plastics distributors have accessed the site and none other than plastics

Answer: Denied. ECM objects to the request as argumentative, prejudicial, improper, incorrect, vague, and/or ambiguous, particularly with respect to the terms “inherently biodegradable.” Subject to such objections, ECM denies the allegation.

REQUEST FOR ADMISSION NO. 4

“Exhibit CX-00001, “Certificate of Biodegradability of Plastics” is representative of the certificates that ECM provided to at least some of its customers.”

RESPONSE:

Answer: Denied: Exhibit CX-00001 is not “representative.” Without waiving the

[REDACTED]

documents received by some entities that have purchased products from ECM. ECM objects to and denies this Request to the extent that it assumes that ECM insinuated, implied, marketed, or advertised any message, meaning, and/or particular advertisement. ECM also objects to the request as argumentative, prejudicial, improper, incorrect, vague,

REQUEST FOR ADMISSION NO. 6

“The documents that ECM submitted to Federal Trade Commission staff with

state that they simulate conditions typically found in Landfills.”

RESPONSE:

Answer: Denied. Denied also to the extent the Response depends on expert opinion before the time designated for identification of experts and issuance of expert reports. *See* Scheduling Order, Dkt. No. 9358 (Nov. 21, 2013). Denied also to the extent that what is shown or demonstrated by testing calls for an ultimate legal conclusion; thus, the request is incompetent because it is not a request for admission of fact.

~~conclusion; thus, the request is incompetent because it is not a request for admission of~~

REQUEST FOR ADMISSION NO. 11

~~“ECM based its claim that ECM Plastic will completely Biodegrade in six~~

months to five years on extrapolations of results obtained in tests conducted over periods less than a year in which the test sample did not completely Biodegrade.”

RESPONSE:

Answer: Denied. ECM objects to the request as argumentative, prejudicial,

~~improper, incorrect, vague, and/or ambiguous particularly with respect to the terms~~

ANSWER. Denied. ECM solely sells its product to plastic product manufacturers and distributors, not end-use consumers. ECM objects to the request as argumentative.

prejudicial, improper, irrelevant, vague, and/or ambiguous, and/or not in the public interest.

REQUEST FOR ADMISSION NO. 15

“ECM does not possess or rely on any consumer perception evidence supporting how ECM’s customers or end-use consumers interpret the phrase ‘some period greater than one year.’”

RESPONSE:

Answer: Denied. ECM solely sells its product to plastic product manufacturers and distributors, not end-use consumers. ECM also objects to the request as

argumentative, prejudicial, improper, incorrect, vague, and/or ambiguous, particularly with respect to the term “evidence.” The Request calls for responsive information related

[REDACTED]

[REDACTED]

Request—Denied also to the extent the Defendant demands an expert opinion before the

time designated for identification of experts and issuance of expert reports. *See* Scheduling Order, Dkt. No. 9358 (Nov. 21, 2013). Denied also to the extent that what is shown or demonstrated by testing calls for an ultimate legal conclusion; thus, the request is incompetent because it is not a request for admission of fact.

**SPECIFIC OBJECTIONS AND RESPONSES TO ADDITIONAL REQUESTS
FOR ADMISSION FOR THE PURPOSES OF AUTHENTICITY AND
ADMISSIBILITY OF EXHIBITS**

RE: [REDACTED]

Answer: ECM objects to the request as argumentative, prejudicial, improper,

incorrect, vague, and/or ambiguous, particularly with respect to the terms “promotional

materials” and “made available.” ECM’s website www.ecmbiofilms.com did display

content depicted in Exhibit CV 00004, however such content was not for

content depicted in Exhibit CV 00004, however such content was not for

Answer: Admitted.

REQUEST FOR ADMISSION NO. 10

“Exhibit CX 00010 attached hereto is authentic.”

Access Letter with beginning Bates number ECM-FTC-000226. Exhibit CX-00015 is admissible into evidence in this matter under Rule 3.43(e).”

RESPONSE:

Answer: Admitted.

REQUEST FOR ADMISSION NO. 16

“Exhibit CX-00016, attached hereto is authentic, genuine, and a true and correct

~~“Exhibit CX-00018 attached hereto is authentic, genuine, and a true and correct copy~~

of the Standard Test Method for Determining Anaerobic Biodegradation of Plastic Materials Under High-Solids Anaerobic-Digestion Conditions, ASTM D 5511 – 11.”

RESPONSE:

Answer: Admitted.

REQUEST FOR ADMISSION NO. 19

“Exhibit CX-00019, attached hereto is authentic, genuine, and a true and correct copy of the Standard Test Method for Determining Anaerobic Biodegradation of Plastic Materials Under High-Solids Anaerobic-Digestion Conditions, ASTM D 5511 – 12.”

RESPONSE:

Answer: Admitted.

REQUEST FOR ADMISSION NO. 20

~~“Exhibit CX-00020 attached hereto is authentic, genuine, and a true and correct copy~~

~~11808 Wolf Run Lane~~
Clifton, VA 20124
Telephone: 202-466-6937
Facsimile: 202-466-6938
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CERTIFICATE OF SERVICE AND ELECTRONIC FILING

I hereby certify that on December 11, 2013, I caused a true and correct copy of the paper original of the foregoing **RESPONDENT'S ANSWERS TO COMPLAINT COUNSEL'S FIRST REQUEST FOR ADMISSIONS** to be filed and served as follows:

One electronic copy to the **Office of the Secretary:**

~~Donald G. ...~~

Federal Trade Commission
600 Pennsylvania Ave. NW Room H-159

Email: secretary@ftc.gov

One electronic courtesy copy via email to the **Office of the Administrative Law Judge:**

The Honorable D. Michael Chappell
Administrative Law Judge
600 Pennsylvania Ave., NW, Room H-110
Washington, D.C. 20580

One electronic copy to **Counsel for Complainant:**

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VERIFICATION

I, Robert Sinclair, declare as follows:

I have read to the foregoing document entitled *Respondent's Answer to Petition*